IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

WP(C).No. 28476 of 2006(S)

OA.889/2004 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF COMMUNICATIONS, DEPARTMENT OF POSTS, NEW DELHI.

2. THE CHIEF POSTMASTER GENERAL, KERALA CIRCLE, TRIVANDRUM.

3. THE SENIOR SUPERINTENDENT OF POST OFFICES, ERNAKULAM POSTAL DIVISION, COCHIN-11.

4. THE SENIOR POSTMASTER, HEAD POST OFFICE, ERNAKULAM.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

RESPONDENT:

M.A.SATHYANATHAN, CHOWKIDAR, HEAD POST OFFICE, ERNAKULAM.

BY ADV. SRI.M.R.HARIRAJ
SMT.REKHA VASUDEVAN
SRI.SURAJ.S
SRI.P.A.KUMARAN
SMT.VINEETHA B.
SRI.K.S.SARATH KUMAR
SRI.S.NITHIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).28476/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE RELEVANT EXTRACT OF THE OFFICE MEMORANDUM DATED 29.1.1998.

EXT.P2: COPY OF O.A.NO.889/2004 OF THE CAT, ERNAKULAM DATED 9.12.2004.

EXT.P3: COPY OF THE REPLY STATEMENT FILED BY THE PETITIONERS HEREIN IN O.A.NO.889/2004 DATED 11.2.2005.

EXT.P4: COPY OF THE REJOINDER FILED BY THE RESPONDENT HEREIN IN O.A.NO.889/2004 DATED 16.5.2005.

EXT.P5: COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY THE PETITIONERS HEREIN IN O.A.NO.889/2004 DATED 18.4.2006.

EXT.P6: COPY OF THE ORDER DATED 21.7.2006 IN O.A.NO.889/2004 OF THE CAT, ERNAKULAM.

/TRUE COPY/

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO.28476 OF 2006 (S)

Dated this the 27th day of February, 2007

J U D G M E N T

KOSHY,J.

This writ petition is filed challenging the order of the Central Administrative Tribunal. The respondent entered the service as a casual labourer in 1974. He was confirmed with temporary status in 1992 and he was regularized as Group-D with effect from 4.1.2003. His pay was fixed and increments were paid regularly from that date. Then his pay was reduced deducting the increments earned by him while he was working as a temporary status employee even without an order or show cause notice. Respondent approached the Tribunal. Tribunal noticed that Ext.P1 was already set aside by the Tribunal by order in O.A.No.1373/1989 (produced before the Tribunal as A4) which was affirmed by this Court in O.P.No.13244/2001 and therefore held that reduction of pay was not correct. Valid reasons are stated by the Tribunal in the

order. By A4 Order, Tribunal already directed to refix the payment of the petitioner according to the last drawn pay when he had been on temporary status as casual labourer. Ext.P2 order was affirmed in O.P.No.13244/2001 by the Division Bench of this Court. The Tribunal while passing Ext.P6 order followed the decision of the Division Bench of this Court as well as considered the entire matter. We see no patent error of law or perverse illegality so as to make any interference in a petition filed under Article 226 of the Constitution of India. The contention that Division Bench decision of this Court in O.P.No.13244/2001 was not correct cannot be considered by this Court. Judgment in O.P.No.13244/2001 has become final and an Officer of respondent has no power to sit in appeal on the same. With the above observations this writ petition is dismissed with costs.

J.B.KOSHY, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

O.P.NO. OF 2006 ()

J U D G M E N T

1th January, 2007